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Supreme Court of the United States

OCTOBER TERM, 1947.

No. 257.

STATE OF FLORIDA ex rel. WILLIAM H. McKEIGHAN,
Appellant,

v.

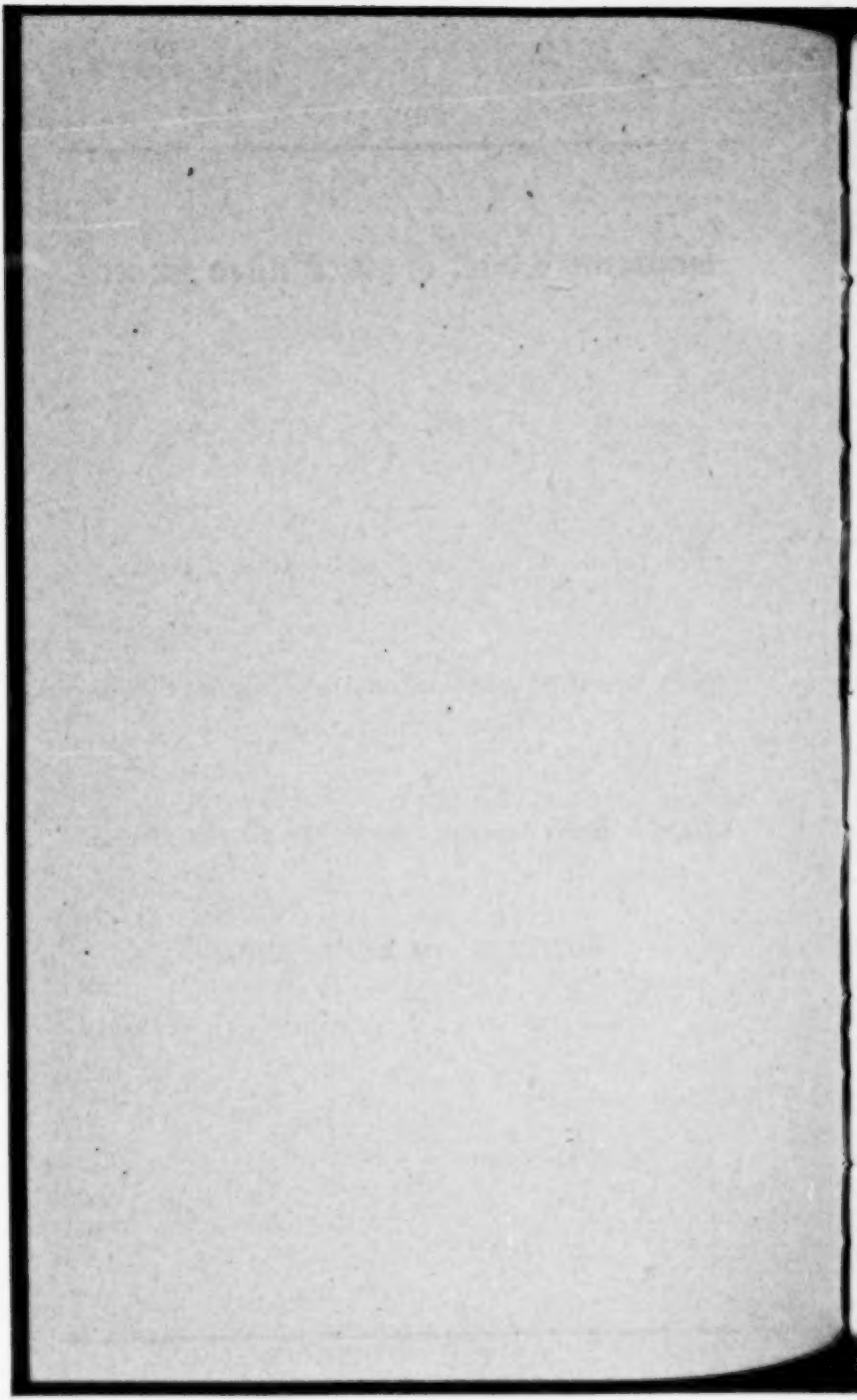
JIMMY SULLIVAN, as Sheriff of Dade County, Florida,
Appellee.

Appeal from the Supreme Court of the State of Florida.

PETITION FOR REHEARING.

NEVILLE MILLER,
Counsel for Appellant,
Munsey Building,
Washington 4, D. C.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.



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Appellant,

v.

JIMMY SULLIVAN, as Sheriff of Dade County, Florida,
Appellee.

Appeal from the Supreme Court of the State of Florida.

PETITION FOR REHEARING.

The appeal in this case was dismissed *per curiam* by this Court on October 13, 1947, "for the reason that the judgment of the court below is based upon a non-federal ground adequate to support it". The court below, the Supreme Court of Florida, wrote no opinion in this matter, either originally or upon the motion for rehearing in that court. Nor did it adopt the decision of the trial court. The record reveals that all the proceedings in this case stem from only one source—the Florida extradition statute, which is

the Uniform Criminal Extradition Act. Since Appellant has drawn the validity of that Act into question as against the federal extradition statute, Appellant finds it impossible to perceive in the case any non-federal ground adequate to support the judgment of the court below.

This is not a case in which are involved two or more independent grounds, federal and non-federal, so that the judgment of the court below may be said to rest on a non-federal ground adequate to support it, even if that court has erroneously decided the federal ground. Since interstate extradition is founded upon the federal statute, since the Florida statute is but an implementation of the federal act, and since every action in this case was performed pursuant to the Florida statute, there cannot be any action in the case possessing an independent non-federal status. Whatever non-federal aspects the case may appear to have on the surface, analysis will show that the non-federal grounds are interwoven with the federal grounds and are not susceptible of isolation and separate determination.

Appellant therefore petitions this Court for rehearing so that these questions may be explored and the case may be presented in its correct jurisdictional framework.

CERTIFICATE OF GOOD FAITH.

Counsel certifies that this Petition for Rehearing is presented in good faith and not for delay.

NEVILLE MILLER.

October 27, 1947.

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